

**EXHIBIT # 4**

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF MARYLAND/NORTHERN DIVISION

3  
4 WILLIAM C. BOND,  
5 Plaintiff

6 CIVIL NUMBER  
7 MJG 01-2600

8 KENNETH BLUM, SR, ET AL.

November 20, 2001

9 Defendants  
10 \_\_\_\_\_/

11 TRANSCRIPT OF ORAL OPINION  
12 BEFORE THE HONORABLE MARVIN J. GARBIS  
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 On behalf of the Plaintiff:

16 Howard J. Schulman, Esquire

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18 On behalf of the defendants:

19 William A. McDaniel, Jr, Esquire

Gerard P. Martin, Esquire

20 Andrew Radding, Esquire

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23 Reported By:

24 Jacqueline Sovich, RPR, CM

25 Official Court Reporter

1 (EXCERPT)

2 THE COURT: All right. Let me get to the bottom  
3 line. I understand there's a lot at stake here, and we have,  
4 you know, a dispute that's far beyond this copyright dispute,  
5 but I've got to deal with this in a copyright manner.

6 I think that the facts are -- the relevant facts are  
7 really not debatable, and I'm going to just -- I'm doing this  
8 off the top of my head. If somebody wants to appeal, I'm  
9 going to have to write it up. I think it's just not very  
10 complex.

11 There was some incident in Mr. Bond's life in which  
12 he was accused and pleaded to a crime in Ohio. He was  
13 represented by Gerald Messerman, an extremely fine lawyer,  
14 with whom I had the privilege of going to law school and  
15 actually practiced in law with Mr. Messerman, so he was  
16 certainly represented by as good a lawyer as you'll find in  
17 Ohio or wherever else, present company perhaps excluded and  
18 perhaps not.

19 Whatever it was, he came to Baltimore. This  
20 relationship started with a person who's now Mrs. Bond.  
21 There's a custody battle, all of which we get involved with.

22 He had written up a manuscript, which was a version,  
23 but be it fiction or real or something in between is not here  
24 to be determined, because in fact he wrote it or wrote most of  
25 it, so that's not an issue.

1 He went to a lawyer named Mr. Pessin and some others,  
2 and he tried to get it published. It's obvious, nobody's  
3 making any serious contention Mr. Pessin was acting in part as  
4 a literary agent, was sending it out to people. There's  
5 letters.

6 The one letter that he wrote to one person, I mean, I  
7 haven't heard the arguments, but I'll wait to hear the  
8 arguments, he was talking about his participating together  
9 with other people in the promotion of a book. He was  
10 obviously going to be a partner in the book. That's fine.  
11 Whatever it works out, works out.

12 The book ends up as -- and on the facts it end up in  
13 Mr. Pessin's house. It's not part of his legal practice,  
14 because he wasn't doing this as a lawyer, and the copy is  
15 either going to be thrown out, but it's given to Mr. Hodgson,  
16 and we can make some debate as to who owns that copy, but  
17 that's really different from analyzing the copyright.

18 This is not a confidential document in any kind of  
19 privileged sense. And, in any event, Mr. Hodgson did not  
20 steal it. Mr. Hodgson got the document from somebody who had  
21 control of that copy, who appeared to be legally entitled to  
22 do so, and gave it to him. I'm not casting any stones at him.

23 The defendants got it, and with regard to a judicial  
24 proceeding, we get into 107. Also it was given to the police.  
25 One can make an argument, but an argument can be made with

1 regard to whether giving it to the police is the equivalent of  
2 using it in a judicial proceeding. I say that that's not  
3 relevant for a lot of reasons.

4           The primary reason is that I'm not here concerned  
5 with what I am going to do with suppressing the police's  
6 acquisition of this document on copyright grounds, but I would  
7 find that even giving it to the police is the same thing. We  
8 look at 107. There's a body of precedence that says that the  
9 use of a work, even the entire work, in litigation, is fair  
10 use.

11           Yes, we have to look at all four aspects of it. I  
12 look at the purpose and character of the use. Purpose and  
13 character of this use has nothing whatsoever to do with any  
14 interest that the copyright law was designed to protect. The  
15 copyright law was never designed to protect content as  
16 distinguished from mode of expression.

17           It was never intended to protect what is said as  
18 compared to how you say it. It was certainly never intended  
19 to utilize, to keep from the public the ability to state the  
20 facts in a document as compared to the mode of expression.

21           The purpose and the character of the use here has  
22 nothing to do with the mode of expression. It has to do with  
23 the content.

24           So the nature of the copyrighted work is a  
25 copyrightable manuscript, and I don't see where that cuts it.

1 It's a perfectly fine manuscript.

2 The amount, substantiality of the portion used in  
3 relation to the copyright work as a whole is entirely used as  
4 a whole, which would be the most positive factor for the  
5 plaintiff, but the effect of the use on the potential market  
6 for value of the copyrighted work is absolutely zero.

7 Ironically, if anything, it increases the value of  
8 the work in a perverse way, but it certainly doesn't decrease  
9 it. I find very persuasive the cases without exception,  
10 without meaningful exception, that you can use a copyrighted  
11 document in evidence, and that's fair use.

12 So with that, I think that's where we are. And I  
13 think it makes life simple. I'm going to deny the preliminary  
14 injunction. I'm going to grant summary judgment to all the  
15 defendants without costs.

16 But, again, if somebody -- you know, if you want to  
17 appeal or want to have further proceedings in this case,  
18 you're free to file for reconsideration on the summary  
19 judgment.

20 I'm not here to rush things along, but I think I've  
21 got the key point in this case, and everything else is just  
22 churning. With that, I think we can adjourn.

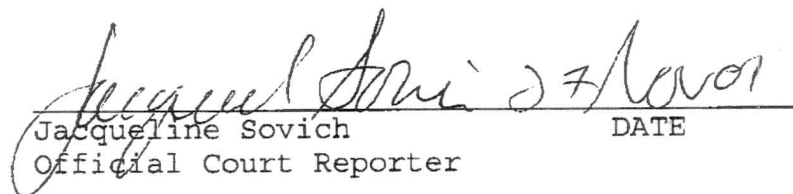
23 (Excerpt concluded)

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I, Jacqueline Sovich, RPR, CM, do hereby certify  
that the foregoing is a correct transcript from  
the stenographic record of proceedings in the above-entitled  
matter.

  
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Jacqueline Sovich                      DATE  
Official Court Reporter